

**THE BOARD OF COUNTY COMMISSIONERS OF  
SANTA FE COUNTY  
RESOLUTION NO. 2015- 63**

**A RESOLUTION AMENDING RESOLUTION NO. 2012-53 CONCERNING THE  
NEGOTIATION OF THE POJOAQUE BASIN REGIONAL WATER AUTHORITY  
JOINT POWERS AGREEMENT**

**WHEREAS**, Santa Fe County (County) is a party to (i) that certain Settlement Agreement, dated April 19, 2012, the purpose of which is to settle the matter of *State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.*, No. 66 CV 6639 MV/LCS (D.N.M.) (the "Aamodt Litigation") and (ii) that certain Cost-Sharing and System Integration Agreement (Cost-Sharing Agreement); and

**WHEREAS**, through the Settlement Agreement and Cost-Sharing Agreement, the County and the Pueblo of Nambe, Pueblo of Pojoaque, Pueblo of San Ildefonso, and Pueblo of Tesuque (collectively, "Pueblos") have agreed to form the Pojoaque Basin Regional Water Authority (Authority) to oversee the operation of the Regional Water System to be constructed pursuant to the Settlement Agreement and Cost-Sharing Agreement; and

**WHEREAS**, the County and Pueblos propose to negotiate and execute a joint powers agreement (JPA) to form the Authority, as authorized under the Joint Powers Agreements Act, NMSA 1978, Chapter 11, Article 1; and

**WHEREAS**, among other things, Resolution No. 2012-53 directed and authorized the County Attorney to negotiate the JPA with the Pueblos, subject to consideration and final action by the Board of County Commissioners (Board) of the County; and

**WHEREAS**, the current County Commissioner for County Commission District 1 has expressed an interest in and willingness to participate directly in the JPA negotiations; and

**WHEREAS**, the Board has concluded that such direct participation would be appropriate, given that the Pojoaque Basin is located entirely within County Commission District 1 and given the significance of the Settlement Agreement and Authority to the Pojoaque Basin; and

**WHEREAS**, the Board desires to amend Resolution No. 2012-53 to recognize such direct participation.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD** as follows:

1. Paragraph 3 of Resolution No. 2012-53 is hereby amended to read in its entirety as follows:
- "3. Governance of Regional Water Authority. In conjunction with the County Attorney and other appropriate County staff, the County Commissioner for County Commission District 1 shall work with the Pueblos to prepare a proposed Joint Powers Agreement (hereinafter referred to as "JPA") pursuant to New Mexico state law that will create a joint board and will establish governance of the regional water authority. The JPA shall assure the following:

SEC CLERK RECORDING 04/30/2015

- a. Protection against withdrawal. The JPA shall contain strict provisions to deter withdrawal of any of the five members from participation in the authority.
- b. Reliability of Service. The JPA shall contain provisions to protect the County's participation in the governance of the authority and to assure that service to County customers is reliable. The JPA shall contain voting rights protections and dispute resolution mechanisms to assure no disruption in service to customers.
- c. Assurance of financial integrity. Subject to limitations contained in the Constitution of the State of New Mexico and New Mexico state law, the JPA shall require its member entities to be responsible for their respective financial obligations to operate and maintain the system. The authority shall at all times have in place appropriate and sufficient insurance to cover its operations. Any liability incurred in connection with operations of the authority shall be subject to the immunities and limitations of the New Mexico Tort Claims Act.

In addition, the JPA shall contain such other provisions as are necessary to carry out the purpose of the regional water authority and to protect the interests of the County and of its utility customers. Once a final proposed JPA is prepared, it shall be placed on one or more public meeting agendas for consideration and action by the Board of County Commissioners. As determined by the County Commissioner for County Commission District 1, the County shall consult with representatives of potential customers concerning the proposed JPA."


2. Nothing in this Resolution or Resolution No. 2012-53 obligates the Board to approve, in whole or in part, the JPA negotiated by the County Commissioner for County Commission District 1.

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of April, 2015.

**THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY**

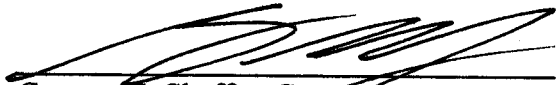
  
Robert A. Anaya, Chair

ATTEST:

  
Geraldine Salazar, County Clerk

4-28-2015

APPROVED AS TO FORM:

  
Gregory S. Shaffer, County Attorney

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC RESOLUTIONS  
PAGES: 2

I Hereby Certify That This Instrument Was Filed for  
Record On The 30TH Day Of April, 2015 at 03:23:28 PM  
And Was Duly Recorded as Instrument # 1763217  
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office  
Geraldine Salazar  
County Clerk, Santa Fe, NM

